

### REMARKS

Claims 1-10 are now currently pending in the application. Applicant respectfully traverses all of the rejections raised in the Office Action. By way of this Response, Applicant has provided additional argument to distinguish the invention. Support for the amendments can be found in all FIGURES. No new matter has been added. Applicant respectfully requests reconsideration of the application.

#### **Rejection of Claims 1, 2 and 5 under 35 U.S.C. 102(b)**

The Office Action rejected claims 1, 2 and 5 under 35 U.S.C. 102(b) as being anticipated by McClure '377. Applicant traverses this ground of rejection.

With respect to claim 1, Applicant respectfully submits that McClure '377 fails to teach all of the currently amended claim limitations.

In order for a rejection to be proper under 35 U.S.C. § 102(b), the reference or references must teach each and every claim element. Appellant respectfully notes that the McClure '377 fails to teach every claim element of claim 1 as currently amended. Specifically, McClure '377 fails to disclose the corner third panels being formed "such that said corner third panel cut-out is cut from an edge of the corner third panel that lies substantially parallel to a line formed by the connection of the corner third panel to the corner second panel, said corner third panel cut-out also being cut from an edge of the corner third panel that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel." In short, this requires that the third panel cut-out be formed in two separate and distinct edges of the third panel. The Office relies on openings 84 and 52, which are formed only in a single edge of the third panel. Applicant respectfully submits that the current claim limitations are not disclosed by the cited art.

The corner third panel cut out of the present invention is arranged such that when the container is in the closed state, "the top panel flaps 36 rest upon a top edge of the corner end panel cutout 38 (FIGURE 6). In this manner, the corner reinforcing assembly 31 helps support the top panels 26, thereby increasing the container's crushing strength." (pg 3: Ins 32-35). McClure '377, and the opening 84 relied upon by the Office provides no such

teaching and cannot function as the present invention. As such, claim 1 is not anticipated by the cited reference. Applicant respectfully requests removal of this ground of rejection.

With respect to claims 2 and 5, claims 2 and 5 are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

**Rejection of Claims 1, 2 5-7, and 9 under 35 U.S.C. 102(b)**

The Office Action rejected claims 1, 2 5-7, and 9 under 35 U.S.C. 102(b) as being anticipated by McClure '020. Applicant traverses this ground of rejection.

With respect to claim 1, Applicant respectfully submits that McClure '020 fails to teach all of the currently amended claim limitations.

With respect to claim 1, the deficiencies of McClure '377 are discussed in detail above and are incorporated herein for brevity's sake. Cutout 78 in McClure '020, like like 84 and 52 in McClure '377 discussed above, are only formed in a single edge of the panel. Additionally, cut-out 30 is formed in an edge adjacent to the top panel, and not opposite the top panel, as is required in the current claim language. This difference is notable as the cut-out in question in the present application serves to support the top panel when the container is closed. This is not possible with the cut-out 30 as taught in McClure '020. Consequently, as the cited reference fails to teach all the limitation of amended claim 1, claim 1 is not anticipated by the reference.

With respect to claims 2, and 5, they are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

With respect to claim 6, Applicant respectfully submits that McClure '377 fails to teach all of the currently amended claim limitations.

With respect to claim 6, applicant respectfully tenders that claim 6 includes the claim limitation that the corner third panel cut-out is formed "...said corner third panel cut-out also being cut from an edge of the corner third panel, adjacent the top panel, that lies substantially perpendicular to a line formed by the connection of the corner third panel to the corner second panel." As discussed above, and in the application, the purpose of the third panel cut-out is to support the top panel, and this can only be done when the container is formed as

claimed, and not as is disclosed in McClure '020. As this limitation is present in claim 6 and is not taught by McClure '020, this claim is not anticipated by the cited art.

With respect to claims 7 and 9, these are dependent upon claim 6 and are therefore allowable for the same reasons that make claim 6 allowable. As such, applicant respectfully requests removal of this ground of rejection.

#### **Rejection of Claims 1, 2, 5-7 and 9 under 35 U.S.C. 102(b)**

The Office Action rejected claims 1, 2-5-7, and 9 under 35 U.S.C. 102(b) as being anticipated by either Muise '224 or Osborne '710. Applicant traverses this ground of rejection.

With respect to claim 1, Applicant respectfully submits that both Muise '224 and Osborne '710 fail to teach all of the currently amended claim limitations. With respect to claim 1, the cut-out relied upon by the Office in Muise '224 and Osborne '710, like those in McClure '377, are formed only in a single edge. As such, they can not possibly meet the present claim limitations. The cited cut-outs in both references are only in one free edge, and are formed to keep their respective panels from interfering with the handheld cutout. As such, the benefits of the present design, as discussed above, can not be attained by either the Muise '224 or Osborne '710 reference, nor are they taught or disclosed. Consequently, as the cited reference fails to teach all the limitation of amended claim 1, claim 1 is not anticipated by the reference.

With respect to claims 2, and 5, they are dependent upon claim 1 and are therefore allowable for the same reasons that make claim 1 allowable.

With respect to claim 6, Applicant respectfully submits that both Muise '224 and Osborne '710 fail to teach all of the currently amended claim limitations.

With respect to claim 6, in the interest of brevity, Applicant respectfully incorporates the arguments presented above. As the cut-outs relied upon by the Office are only in one edge of the third panel, the limitations of Claim 6 can not possibly be met. As the limitations present in claim 6 are not taught by either the Muise '224 or Osborne '710 reference, the claim is not anticipated. Applicant respectfully request removal of this ground of rejection.

With respect to claims 7 and 9, these are dependent upon claim 6 and are therefore allowable for the same reasons that make claim 6 allowable. As such, applicant respectfully requests removal of this ground of rejection.

### CONCLUSION

Based upon the above remarks, Applicant respectfully requests reconsideration of the application and its early allowance. The Examiner is invited to contact the undersigned should direct communication on this matter be deemed helpful to facilitate progression of the case.

RESPECTFULLY SUBMITTED,

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